APPEAL NO. 040542
FILED APRIL 29, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing (CCH) was held on January 28, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) was injured in the course and scope of her employment on _____, and that she had disability from March 10 through July 20, 2003. The appellant (carrier) appeals, contending that the hearing officer's determinations on the disputed issues are not supported by sufficient evidence and that the hearing officer was biased against the carrier.

DECISION

Affirmed as reformed herein.

The claimant had the burden to prove that she sustained a compensable injury as defined by Section 401.011(10) and that she had disability as defined by Section 401.011(16). The claimant is a nurse. On _____, she was returning to the nurse's station from a patient's room when she turned quickly to retrieve a patient chart and felt a pop in her right knee. An MRI of the claimant's right knee revealed that she had a tear of the medial meniscus of her right knee, for which she underwent surgery on June 23, 2003. She returned to full-duty employment on July 21, 2003. The hearing officer found that the injury to the claimant's knee is causally related to her employment and that the claimant was unable to work because of her injury from March 10 through July 20, 2003. The hearing officer concluded that the claimant was injured in the course and scope of her employment and that she had disability from March 10 through July 20, 2003.

The carrier cites Appeals Panel decisions for the proposition that the claimant failed to prove a nexus between her injury and her employment because, according to the carrier, the claimant was simply walking when the accident occurred and because no "instrumentality" of the employer was involved in the accident. We believe that the hearing officer's decision is sufficiently supported by the evidence. We point out that in Hanover Insurance Company v. Johnson, 397 S.W.2d 904 (Tex. Civ. App-Waco 1965, writ ref'd n.r.e.), the court stated "It is held that strains, sprains, wrenches and twists due to unexpected, undesigned or fortuitous events, even where there is no overexertion, and the employee is predisposed to such a lesion, are compensable." *See also* Texas Workers' Compensation Commission Appeal No. 990252, decided March 25, 1999, in which the Appeals Panel affirmed a determination in favor of a claimant in a similar fact situation and rejected the same arguments that are made by the carrier in the instant case. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determinations that the claimant was injured in the course and scope of

her employment and that she had disability for the time period found by the hearing officer are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We reform Finding of Fact No. 9 to delete the word "not" because in view of the hearing officer's other findings of fact and his conclusions of law and decision, the "not" in Finding of Fact No. 9 appears to be a typographical error. As reformed, Finding of Fact No. 9 will state: "Claimant has lost time as a result of a compensable injury."

The carrier asserts that the hearing officer engaged in conduct at the CCH which compromised the appearance of impartiality and resulted in bias against the carrier. We disagree. The questioned conduct occurred during the carrier's closing argument. The record reflects that the hearing officer asked the carrier's attorney not to read the medical reports to him because he would read all of the exhibits himself. The record further reflects that the carrier's attorney was allowed to give a lengthy closing argument, in which references were made to the evidence, court cases, and Appeals Panel decisions, and in which all arguments in its favor were covered. While the carrier's attorney contends that she was not allowed to read from her notes, it appears from the extensive closing argument, with references to case law, Appeals Panel decisions, and medical records, that some reference to notes or an outline was accomplished. We perceive no bias on the part of the hearing officer.

As reformed herein, we affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Robert W. Potts
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Chris Cowan
Appeals Judge